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December 3, 2021

**VIA ECF & EMAIL (Failla\_NYSDChambers@nysd.uscourts.gov)**

Judge Katherine Polk Failla  
United States District Court  
Southern District of New York  
40 Foley Square, Room 2103  
New York, NY 10007

**MEMO ENDORSED**

**Re: *Martínek v. AmTrust Financial Services, Inc.*, 1:19-cv-08030-KPF (S.D.N.Y.)**

Dear Judge Failla:

We represent Lead Plaintiff Jan Martínek and the putative class in the above-referenced matter and we write this letter pursuant to the procedures in Rule 9 of Your Honor's Individual Rules regarding electronic filing of documents with redactions or under seal.

Specifically, we seek leave to file under seal our three-page letter request pursuant to Local Civil Rule 37.2 (to be filed momentarily) that the Court and the parties address at the upcoming December 14, 2021 conference two outstanding discovery disputes (the "Discovery Letter"). Specifically, the Discovery Letter seeks 1) an Order compelling defendants to produce six documents over which they have asserted privilege, and 2) a spoliation finding.

The Discovery Letter includes as exhibits and makes reference to 1) an email produced by Defendants designated as confidential under the governing October 15, 2020 Protective Order (ECF 40); 2) an excerpt from Defendants' privilege and redaction log; and 3) excerpts from the deposition transcript of a witness (collectively, the "Exhibits").

To be clear, plaintiff disagrees that any of the Exhibits contain information worthy of confidentiality status because plaintiff can conceive of no way in which their publication would harm defendants or any other individual or entity. Plaintiff emailed defense counsel the Exhibits, requesting that it withdraw any confidentiality designations (solely with respect to the information contained therein) promptly, in order to allow the Discovery Letter and the Exhibits to be filed publicly. While acknowledging receipt of the email, defendants have not, as of this filing, responded to plaintiff's requests, despite plaintiff's additional prodding.

Accordingly, in deference to the governing Protective Order and defendants' existing wishes, plaintiff seeks leave to file the Discovery Letter and the Exhibits under seal. Again, plaintiff disagrees that any these materials should ultimately be allowed to remain under seal.

Respectfully submitted,

/s/ Adam J. Blander

CC: All counsel of record (via ECF)

The Court is in receipt of Plaintiff's above letter and Plaintiff's letter motion (Dkt. #64).

Plaintiff's request to file its letter motion under seal is GRANTED. The Clerk of Court is directed to file the motion under seal, viewable only to the parties and Court.

Additionally, Defendants are hereby ORDERED to file a response to Plaintiff's motion on or before **December 9, 2021**. The parties should be prepared to discuss the issues raised in Plaintiff's motion, as well as Defendants' response, at the December 14, 2021 pretrial conference.

The Clerk of Court is directed to terminate the motion at docket entry 63.

Dated: December 6, 2021  
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE